

Lobbying Before Houston City Council for Freebirds Restaurant

Richard Rothfelder is the Mayor of the City of Southside, a Houston suburb, and an officer of the Harris County Mayors and Councils Association, an association of elected officials representing communities in Harris County. Utilizing his legal expertise and political connections in governmental regulation, Mr. Rothfelder successfully represented Freebirds World Burrito, a regional restaurant chain, and its landlord, Trammell Crow Company, in securing a variance from Houston's alcoholic beverage regulations. Freebirds had originally been denied a permit to sell alcoholic beverages, because it is located across the street from a non-denominational church. In securing the variance, Mr. Rothfelder appeared before the Houston City Council, lobbied individual councilpersons, negotiated with the legal department, and drafted the appropriate legislation.

Burrito bistro gets exceptional booze permit from city

BY JENNA COLLEY
HOUSTON BUSINESS JOURNAL

Freebirds World Burrito has won the right to peddle libations along with Latino fare in Shepherd Plaza Shopping Center.

Houston City Council vetoed a blanket attempt to accommodate other tenants seeking alcohol sales permits in the center, but granted a variance allowing the Bryan-based burrito vendor to serve beer and wine during lunch and dinner hours.

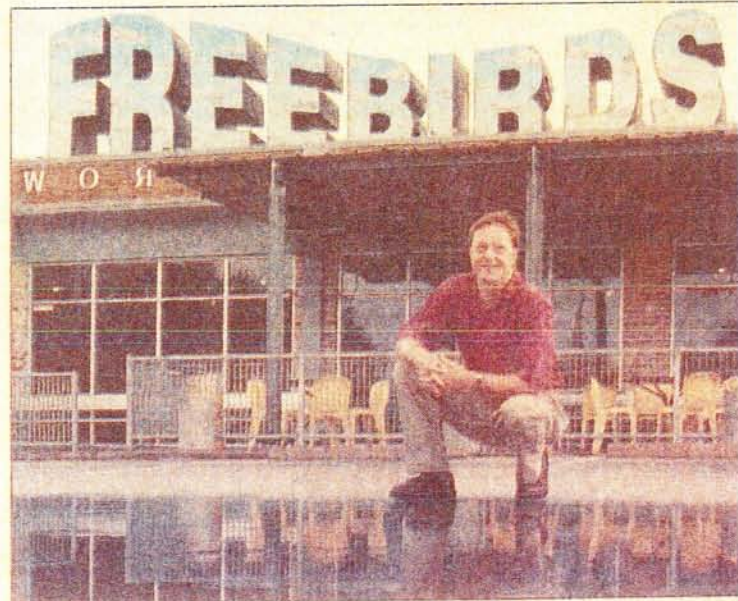
Portions of Shepherd Plaza, located at 3745 Greenbriar, lie within 300 feet of the Saint Germain Foundation, a spiritual center located across the street. The late discovery of the church in 1998 prompted controversy over the limitations it imposes on

the once-thriving nighttime hot spot, which now totes vacant space.

On July 17, City Council sent a wide-sweeping ordinance back to the Legal Department that would have granted a permanent exception to any premises within the Shepherd Plaza center.

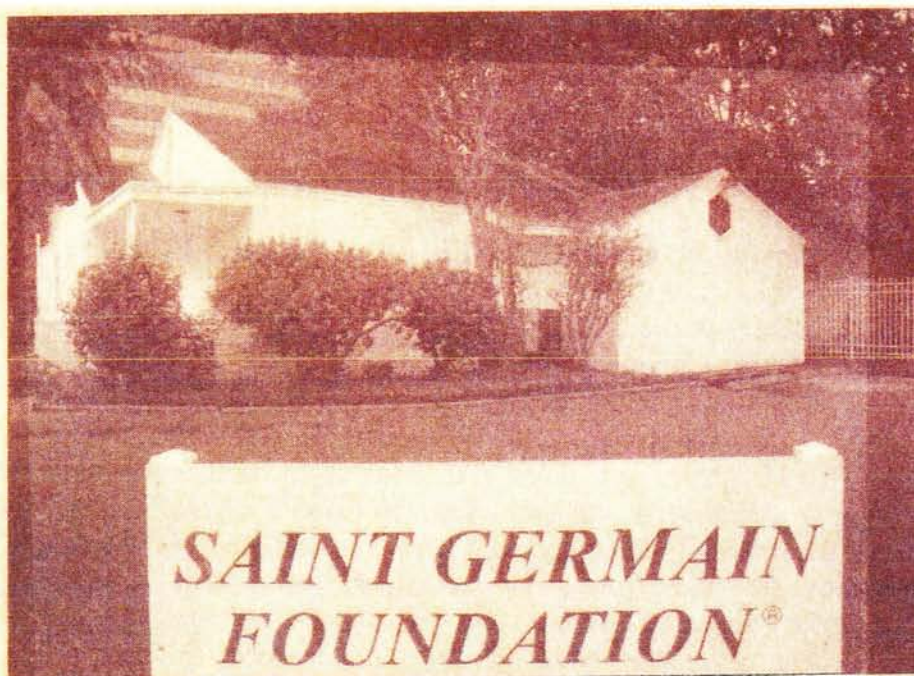
The Legal Department had a problem with the ordinance. While a similar request last year granted alcohol sales exemptions for bars located within downtown hotels, the department found that the shopping center's position was not equally exceptional and shouldn't qualify for unique consideration.

Disappointed executives of Trammell Crow Co., the center's



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Alan Hixson of Freebirds: The process shouldn't have to be that difficult.



(CRAIG HARTLEY/HB)

Portions of Shepherd Plaza lie within 300 feet of the Saint Germain Foundation.

PERMIT: Restaurant copes with religion and red tape in bid to sell alcoholic drinks

owner, switched strategy and focused on Freebirds, which has sought an alcohol variance since opening in July 2001.

Freebirds operates on the site previously occupied by defunct restaurant/club Amazon 2050, which won a similar variance following a comparable legal battle with the city in 1998.

City legal sources say that four years ago the possibility of a topless dance club moving into the area prompted city and civic leaders to explore methods to legally block

The 1998 City Council considered grandfathering existing sites, but specifically denied granting any future alcohol permits unless the establishments making the applications were opened under a lease transfer.

Essentially, once a bar or restaurant went under, the possibility of gaining a permit went with it.

Freebirds has been the first exception and the first attempt to override the 1998 standard.

CHANGING THE RULES

The shopping center's situation poses a unique leasing problem for Trammell Crow, says Alan Hassenflu, the company's senior managing director.

"The most frustrating thing is that we purchased it under a set of rules, and those rules changed," says Hassenflu.

The existence of the church and accompanying restrictions surprised Trammell Crow, which had purchased the property in 1997 before the controversy arose. The church had not been officially designated.

"The main issue deals with a very small area of the shopping center," says Hassenflu. "Unfortunately, that's where many of the restaurant sites are located that are already built out and suitable."

Any prospective tenant faces a similar struggle in seeking a permit at City Hall — a deterrent many may not want to face at the start-up stage or expansion of a business.

And Freebirds isn't without restric-

The company can't earn more than 40 percent of gross receipts in alcohol sales. Dancing and live music are also prohibited. The premises also can't have any signage that is placed upon or visible from the exterior of the restaurant that references, suggests or advertises the availability of alcoholic beverages.

Alan Hixson, vice president of Freebirds, says he's relieved that the booming Houston location will now get to serve beer and wine. But the process has been draining.

"It's kind of crazy," he says. "The purported church has no problem with anyone having a license. The process we are going through to have to get something done shouldn't be that difficult."

Hixson says the permitting restrictions don't protect the best interests of businesses in the area, especially a neighborhood in transition. Other interested restaurant owners who've spoken with Hixson don't want to hassle with the headaches of City Hall.

"Everyone is waiting and following our lead," he says. "Other businesses don't feel comfortable, so they are waiting to see if we're successful. I think the bottom line is that they've all got a job to do, and we respect that. But it has discouraged good business. We understand that there is a certain element that you don't want. On the flip side, this discourages some good operators."

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Alan Hassenflu
Trammell Crow Co.

such an establishment.

In the process, they discovered the existence of the Saint Germain Foundation, effectively throwing all current alcohol permit holders within 300 feet into violation.

Saint Germain officials could not be reached for comment.